

REMARKS

Claims 1-5, 7-11, 14-19, 23 and 24 are pending with entry of this amendment.

Claims 12,13, 20-22 and 25 have been cancelled without prejudice.

Rejection under 35 U.S.C. § 112

On page 2 of the Action, Claims 11-12 and 14-15 were rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant has cancelled Claim 12 without prejudice. Applicant has amended Claim 11 to correct the informality identified by the Examiner. Withdrawal of the rejection of Claim 11 is respectfully requested. Without addressing the merits of the rejection of Claims 14-15 these claims are patentable by virtue of their dependency upon independent Claim 11. Claim 11 is in condition for allowance. Thus, reconsideration and withdrawal of the rejection of Claims 14-15 are hereby respectfully solicited.

Rejection under 35 U.S.C. § 103(a)**Claims 1-5, 11, 12, 16-18 and 24**

At pages 2-7, Claims 1-5, 11, 12, 16-18 and 24 were improperly rejected as being unpatentable under 35 U.S.C. § 103(a) over Molne in view of Farber. Claim 12 has been cancelled without prejudice. It appears the Office overlooked the claim language distinguishing these claims from the cited references, or mischaracterized what Molne and Farber fairly disclose.

Claim 1, as amended, is instructive in this instance. For example, Claim 1 recites:

A software defined radio comprising:

a plurality of layered communication schemes;
a configuration system for selectively enabling one of the plurality of layered communication schemes comprising a processor, a smartcard reader and a memory;
wherein a one of the plurality of communication schemes is selected and enabled by the processor based on configuration information from a user's smartcard, and wherein said configuration information includes at least a security authorization, **and wherein the selection and enabling of the communication scheme is a function of the security status of the user.** (emphasis supplied).

Claim 1 as recited and emphasized above provides a software defined radio (“SDR”) which provides access to a plurality of layered communication schemes as a function of a authorization scheme. Thus, depending upon a user's actual authorization, i.e., confidential, secret, etc., the user will be provided access to a specified communication scheme/protocol as a function of his/her security status. Independent Claims 11, 16 and 24 have been amended in a similar manner.

While Applicant agrees with the Office that Molne fails to teach or disclose that information retrieved from the smartcard comprises a security authorization, Applicant submits that Farber fails to supplement the deficiencies of Molne . For example, Farber discloses a mobile telecommunications system that utilizes an authorization of the mobile station to receive programming modules. *See* 5:58-61. Applicant submits that Farber does not disclose a layered process as recited in independent Claims 1, 11, 16 and 24, as amended. Rather than teaching where a one of a plurality of communication schemes is selected and enabled by a processor based on user-defined information, i.e., a security

authorization, Farber merely provides access authorization to receive a programming module. This authorization does not select and/or enable one of a plurality of communication schemes based upon user-defined information, as claimed. Rather, Farber's authorization allows a module to be accepted. Thus, Farber fails to supplement the deficiencies of Molne as to this aspect of the claimed subject matter.

Farber's disclosure of an external network check of access authorization fails to establish a *prima facie* case for validation of the access authorization as a part of the internal method of configuration or any concept of levels of access. Applicant respectfully requests reconsideration and withdrawal of the rejection of independent Claims 1, 11, 16 and 24.

Without addressing the merits of the rejection of Claims 2-5 and 17-18, these claims are patentable by virtue of their dependency upon independent Claims 1 and 16. Claims 1 and 16 are in condition for allowance. Thus, reconsideration and withdrawal of the rejection of Claims 2-5 and 17-18 are hereby respectfully solicited.

Claims 7-10 and 14-15

At pages 8-11, Claims 7-10 and 14-15 were improperly rejected as being unpatentable under 35 U.S.C. § 103(a) over Molne in view of Farber, and further in view of U.S. Patent Application Publication No. 2003050055 to Ting et al. ("Ting").

Claims 7-10 and 14-15 are dependent upon independent Claims 1 and 11. Claims 1 and 11 are in condition for allowance. Thus, the claims depending from independent

Claims 1 and 11 are patentable at least by virtue of their dependence without need to resort to the additional patentable limitations contained therein. Reconsideration and withdrawal of the rejection of Claims 7-10 and 14-15 under 35 U.S.C. § 103(a) are hereby solicited.

Claims 19-23 and 25

At pages 11-13, Claims 19-21 and 23 were improperly rejected as being unpatentable under 35 U.S.C. § 103(a) over Molne in view of Ting. At page 13, Claim 22 was improperly rejected as being unpatentable under 35 U.S.C. § 103(a) over Molne in view of Ting, and further in view of Farber. At page 14, Claim 25 was improperly rejected as being unpatentable under 35 U.S.C. § 103(a) over Molne in view of Farber, and further in view of Kolev. Without addressing the merits of the rejection, Applicant has cancelled Claims 20-22 and 25.

Independent Claim 19 has been amended to include the patentable elements of Claims 20-22 in full. With regard to independent Claim 19, Applicant submits that the Office has failed to establish a *prima facie* case of obviousness when combining Molne with Ting. While Applicant agrees with the Office's admission that Molne fails to teach or disclose a programmable IF section, a programmable baseband section, and that information is based on the service requirements, mission requirements, and security status of the user, it appears that the Office has failed to meet his burden showing that Ting supplements the deficiencies of Molne.

For example, the Office alleges that paragraph [0060] of Ting discloses “said information is based on at least the service requirements and mission requirements of the user,” as recited in amended Claim 19. However, Applicant cannot find disclosure in this paragraph or any portion of Ting regarding “service requirements of the user” or “mission requirements of the user.” *Ting is silent with regard to any user-defined aspect of an SDR.*


Further, the Office’s improper assertion that performance monitoring teaches or is even analogous to service and mission requirements is undermined by the same recited paragraph [0060]. For example, Ting discloses in paragraph [0060] that examples of performance parameters include signal to noise ratio and channel impulse response. Neither SNR nor channel impulse response teach specific user levels of access or operational needs encoded on a smartcard designating the respective programs for the IF and baseband sections as required by the claim. Allowance of independent Claim 19 and those claims dependent thereon is hereby respectfully requested.

CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance. Favorable consideration and prompt allowance are earnestly solicited.

If the Examiner believes that any additional changes would place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney, Mark C. Comtois, at the telephone number listed below.

Respectfully Submitted

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